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March 26, 2009

Honorable Donovan W. Frank
United States District Court
724 Federal Building
316 N. Robert Street
St. Paul, MN 55101

Re: State of Minnesota, by Michael Campion, its Commissioner of Public Safety v.
CMI of Kentucky, Inc. and Robert J. Bergstrom, Craig A. Zenobian, Shane M.
Steffensen and Christopher D. Jacobsen
U.S.D.C. File No. 08-CV-603 (DWF/AJB)

Dear Judge Frank:

We are writing regarding the pending cross-motions of the State and CMI for partial summary judgment in this case. (A copy of the parties' cross-motions are attached for the Court's reference.) (Docket 104 and 115.) In accordance with the Court's scheduling order, the first briefing of these motions will be filed with the Court on April 17, 2009 and will be completed on May 29, 2009. Oral argument on the motions is scheduled for June 4, 2009.

As the Court is aware, the issues pertinent to the cross-motions substantially overlap with issues raised in CMI's pending motion to dismiss the claim of Intervenor Jacobsen. The motion regarding Intervenor Jacobsen is currently under advisement by the Court.

In light of the substantial overlap of issues between the cross-motions and the motion regarding Intervenor Jacobsen, the State requests that the Court defer decision on the motion regarding Intervenor Jacobsen until the State has the opportunity to brief the overlapping issues in its motion. The State has discussed this request with counsel for Intervenor Jacobsen and CMI. Counsel for Intervenor Jacobsen has no objection to the State's request. CMI is consulting with its client regarding the State's request and we trust will advise the Court of its position in response to this letter.

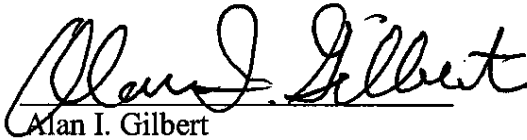
The State is certainly agreeable to expediting the briefing of the cross-motions if the Court so desires. In addition, if the Court deems it appropriate, the State would be happy to



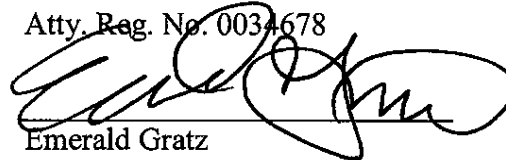
Honorable Donovan W. Frank
March 26, 2009
Page 2

participate in a telephone or in-person conference to discuss the State's request.

Very truly yours,



Alan I. Gilbert
Solicitor General
Atty. Reg. No. 0034678



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Enclosures

cc: William A. McNab
John Gores
Magistrate Judge Arthur J. Boylan

AG: #2412462-v1

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

State of Minnesota,
by Michael Campion, its
Commissioner of Public Safety,

File No. 08-CV-603 (DWF/AJB)

Plaintiff,

v.

CMI of Kentucky, Inc.,
a Kentucky corporation,

**DEFENDANT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, FOR
JUDGMENT ON THE PLEADINGS**

Defendant,

and

Robert J. Bergstrom, Craig A. Zenobian,
Shane M. Steffensen, and Christopher D.
Jacobsen,

Plaintiff-Intervenors.

Defendant CMI of Kentucky, Inc. respectfully moves this Court for Partial Summary Judgment or, in the alternative, for Judgment on the Pleadings, in favor of Defendant on Counts II, III and IV of the State's Complaint, Count I of Plaintiff-Intervenors' Complaint-in-Intervention, and for Summary Judgment on Count II of Defendant's Counterclaim. This motion is based upon the file, record, pleadings in the case, arguments of counsel, and the memoranda of law to be filed in the ordinary course.

Respectfully Submitted,

Dated: February 27, 2009

WINTHROP & WEINSTINE, P.A.

s/William A. McNab

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**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

State of Minnesota,
by Michael Campion, its
Commissioner of Public Safety,

File No. CV-08-603 (DWF/AJB)

Plaintiff,

and

Robert J. Bergstrom, Craig A.
Zenobian, Shane M. Steffensen, and
Christopher D. Jacobsen,

Plaintiffs-Intervenors,

**PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AND A PERMANENT INJUNCTION,
OR IN THE ALTERNATIVE
FOR A PRELIMINARY INJUNCTION**

vs.

CMI of Kentucky, Inc.,
a Kentucky corporation,

Defendant.

Plaintiff State of Minnesota moves the Court for partial summary judgment and a permanent injunction, or in the alternative for a preliminary injunction, with respect to Counts III and IV of the Complaint. This motion is made pursuant to Federal Rules of Civil Procedure 56 and 65, and is based upon the files, records, pleadings in the case, arguments of counsel, and the memoranda of law to be filed in accordance with the Amended Pretrial Scheduling Order dated March 5, 2009.

Dated: March 13, 2009

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

s/ Emerald Gratz

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